IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

RPFC.No. 50 of 2003()

(AGAINST ORDER DATD 26/2/2003 IN MC.331/2001 of FAMILY COURT,MANJERI)
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REVISION PETITIONER/RESPONDENT:

MANHALANKANDI SUBRAMANNIAN S/O. VASU,
TAILOR, MUTHEERI (RESIDING AT) P.O.MUKKATTA
VIA. NILAMBUR, NILAMBUR TALUK.

BY ADV. SRI.K.P.MUJEEB

RESPONDENT: PETITIONER:

VALSALA D/O. PULIKKAL CHATHUNNI,
27 YEARS, SANTHI NAGAR, NILAMBUR TALUK,
VANIYAMBALAM P.O., MANDOOR AMSOM DESOM.

BY ADV. SRI.K.RAVEENDRAN

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 05/11/2007. THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.4315/2003 IN RP(F.C)NO.50/2003

DISMISSED

5/11/2007 **SD/- K.R.UDAYABHANU,JUDGE**

/TRUE COPY/

P.A.TO JUDGE

KSS

K.R.UDAYABHANU, J

R.P.(FC) No.50 of 2003

Dated this the 5th day of November, 2007

O R D E R

The revision petitioner is the respondent/husband in M.C.No.331/01 the proceedings initiated by the respondent/wife under Section 125 Crl.P.C. The revision petitioner is under orders to pay maintenance at the rate of Rs.500/- per month from the date of petition. It is the contention of the revision petitioner that the finding of the court below as to the fact that the revision petitioner married the respondent is erroneous. It is also contended that there is no reliable evidence as to the alleged cruelty and also that the quantum of maintenance ordered is excessive.

2. The petitioner/wife in the M.C. had alleged that she got married the respondent as per the rites and ceremonies of the Hindu community on 9.2.1992 and that they were living in the matrimonial home and a female child was also born in the wed lock. But the child died after sometime. It is also alleged that the respondent/revision petitioner misappropriated the gold

ornaments and Rs.25,000/- given to her by her parents at the time of marriage. He used to assault her demanding more money and used to beat her under the influence of liquor. On 11.5.1997, the revision petitioner and his family members manhandled her and threatened to kill her and she was forced to leave the house of the revision petitioner. No amount has been paid so far for maintenance. Subsequently the revision petitioner married one Sindhu who was employed in his own tailoring shop and he is getting a monthly income of Rs.5,000/- per month. He is getting annual income of Rs.15,000/- from his properties as well. On the other hand, revision petitioner has denied the alleged remarriage. He has also denied the allegation that he is having a tailoring shop. According to him, he is only a worker of the tailoring shop. It is also alleged that the petitioner/wife is working as a beedi roller and getting Rs.45/- per day.

3. The evidence adduced in the matter consisted of the testimony of PW1, Exts. P1 to P4 and RW1.

4. PW1, the petitioner, has testified in tune with the averments in the petition. She has also produced Ext. P1 certified copy of the marriage certificate issued by the Executive

officer of the Wandoor Devaswam. They had married at Wandoor Siva temple on 9.2.1992. It is stated that there was also a criminal proceeding against the revision petitioner, his parents and sisters for the offences under Sections 341, 323, 506(2) and 498(A) read with Section 34IPC in which the accused were acquitted. It is stated that in the above proceedings he had not disputed the fact that the respondent/wife is married to him. RW1, the revision petitioner, was questioned in C.C.No.369/97 under Section 313 Crl.P.C. and this statement was put to him. In the above statement he has admitted the matrimonial relationship. He has not denied his version in Ext. P4 copy of the 313 statement. The petitioner has also produced Ext. P3 copy of the marriage certificate issued by the Temple Protection Committee when he married one Sindhu on 15.8.1997.

5. In the circumstances, I find that the subsequent remarriage by the revision petitioner stands proved. The finding of the court below that he has admitted the marriage with the respondent/wife also is only proper. In the circumstances, the finding of the court below that the respondent/wife is living apart for sufficient reasons is only to be upheld. So far as the quantum

of maintenance is concerned the amount of maintenance ordered i.e., Rs.500/- per month which cannot be said to be excessive. I find no reason to interfere in the findings of the court below.

The revision petition is dismissed.

K.R.UDAYABHANU,
JUDGE

csl